

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

HARLAN GENE WARD,

Plaintiff,

5:16-CV-1038
(GTS/WBC)

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

LEGAL SERVICES OF CENTRAL NEW YORK
Counsel for Plaintiff
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Syracuse, NY 13202

SOCIAL SECURITY ADMINISTRATION
OFFICE OF REG'L GEN. COUNSEL-REGION II
Counsel for Defendant
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OF COUNSEL:

CHRISTOPHER CADIN, ESQ.

MICHELLE L. CHRIST, ESQ.
Special Assistant U.S. Attorney

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

The above-captioned matter comes to this Court following a Report-Recommendation by United States Magistrate Judge William B. Mitchell Carter, filed on November 16, 2017, recommending that Plaintiff's motion for judgment on the pleadings be granted in part, Defendant's motion for judgment on the pleadings be denied in part, the Commissioner's decision denying Plaintiff Social Security benefits be reversed, and this matter be remanded to the Commissioner of Social Security pursuant to sentence four of 42 U.S.C. § 405(g). (Dkt. No. 19.) Objections to the Report-Recommendation have not been filed and the time in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing all of the papers herein, including Magistrate Judge Carter's thorough Report-Recommendation, the Court can find no clear error in the Report-Recommendation:¹ Magistrate Judge Carter employed the proper legal standards, accurately recited the facts, and correctly applied the law to those facts. (Dkt. No. 19.) As a result, the Report-Recommendation is accepted and adopted in its entirety; Plaintiff's motion for judgment on the pleadings is granted in part; Defendant's motion for judgment on the pleadings is denied in part; the Commissioner's decision denying Plaintiff Social Security benefits is reversed; and this matter is remanded to the Commissioner of Social Security for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

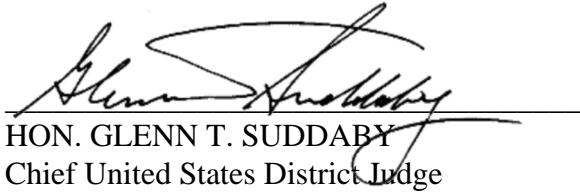
ACCORDINGLY, it is

ORDERED that Magistrate Judge Carter's Report-Recommendation (Dkt. No. 19) is ACCEPTED and ADOPTED in its entirety; and it is further
ORDERED that Plaintiff's motion for judgment on the pleadings (Dkt. No. 11) is GRANTED in part, Defendant's motion for judgment on the pleadings (Dkt. No. 16) is DENIED in part, the Commissioner's decision denying Plaintiff Social Security benefits is

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).

REVERSED, and this matter is **REMANDED** to the Commissioner of Social Security for further proceedings under sentence four of 42 U.S.C. § 405(g).

Dated: January 16, 2018
Syracuse, New York



HON. GLENN T. SUDDABY
Chief United States District Judge